

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lily Kim	Team: Squad #6	CCRB Case #: 202101858	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/22/2021 2:30 PM	Location of Incident: Netherland Avenue and West 256th Street	Precinct: 50	18 Mo. SOL 9/22/2022	EO SOL 9/22/2022	
Date/Time CV Reported Tue, 03/23/2021 10:10 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 03/23/2021 10:10 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Denise Delgado	00171	951671	050 PCT
2. CPT Charles Girven	00000	893101	050 PCT
3. POF Tiara Acevedo	05491	968209	050 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Jordan Karras	4818	943426	050 PCT
2. POM Jhonatan Torres	30584	965570	050 PCT
3. POM Garthlette James	11461	951845	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Charles Girven	Abuse: Captain Charles Girven questioned § 87(2)(b)	
B.CPT Charles Girven	Abuse: Captain Charles Girven seized § 87(2)(b)'s property.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On March 23, 2021, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On March 22, 2021 at approximately 2:30 p.m., § 87(2)(b) sat on his dirt bike, which was parked in a parking spot near the intersection of Netherland Avenue and West 256th Street in the Bronx. A group of officers including Captain Charles Girven and PO Denise Delgado of the 50th Precinct arrived at the location for an unrelated 911 call, and Cpt. Girven walked up to § 87(2)(b). Cpt. Girven walked up to § 87(2)(b) and immediately told him that he was going to take his bike because it was not registered (**Allegation A—Abuse of Authority, § 87(2)(g)**). PO Garthlette James of the 50th Precinct drove a marked police van to the location. Cpt. Girven instructed PO James to transport the vehicle to the stationhouse (**Allegation B—Abuse of Authority, § 87(2)(g)**) and instructed PO Delgado to voucher the vehicle.

§ 87(4-b), § 87(2)(g)

Case #202103095 was generated and spun off to IAB for the racial profiling allegation. No summonses or arrests resulted from the incident. Body-worn camera footage was obtained of this incident. No surveillance footage was requested for this incident.

Findings and Recommendations

Allegation A—Abuse of Authority: Captain Charles Girven questioned § 87(2)(b)

Allegation B—Abuse of Authority: Captain Charles Girven seized § 87(2)(b) property.

At the 1:04 mark in Cpt. Girven's BWC (**BR 01**), Cpt. Girven approaches and asks § 87(2)(b) if this is his motorcycle. § 87(2)(b) confirms that it is, and Cpt. Girven asks to see the papers. § 87(2)(b) states that he does not have papers for it because he bought it from a store. At the 1:13 mark, Cpt. Girven states that there are no tags on the dirt bike. Cpt. Girven asks for license and registration, and § 87(2)(b) states that he does not have any. At the 1:31 mark, Cpt. Girven states that the dirt bike does not have any plates or inspection. Cpt. Girven states that he has to impound the vehicle since he found it in the street without any plates. At the 2:25 mark in Cpt. Girven's BWC footage, Cpt. Girven asks if § 87(2)(b) can provide identification so that Cpt. Girven can document it on the voucher. § 87(2)(b) states that he does not have identification. At the 2:32 mark, Cpt. Girven motions at some of the officers to come over, including PO Delgado. PO Delgado walks to Cpt. Girven, who informs her that they are going to impound the dirt bike until § 87(2)(b) can provide documentation for the vehicle. At the 10:40 mark, PO James arrives in a marked police van to transport the vehicle. At the 12:40 mark, Cpt. Girven walks to PO James at the marked van. PO James and Sgt. Karras put the dirt bike in the van. The dirt bike does not have any visible license plates on it.

At the 12:20 mark in PO Delgado's BWC (**BR 02**), PO Delgado hands § 87(2)(b) a card and verbally gives § 87(2)(b) instructions on how to get his vehicle.

§ 87(2)(b)'s statement (**BR 03**) was mostly consistent with BWC, with the following additional details. § 87(2)(b) used his phone while he sat on his dirt bike facing away from the handlebars in a parking spot on the street. The dirt bike, which runs on gas, was turned off with the keys in the ignition. § 87(2)(b) stated that Cpt. Girven immediately told him that he would impound § 87(2)(b) dirt bike.

Cpt. Girven and other witness officers were not interviewed, as the BWC captured the entirety of the incident.

PO Delgado's statement (**BR 04**) was consistent with BWC.

§ 87(2)(b) dirt bike was vouchered under invoice § 87(2)(b) (**BR 05**). PO Delgado performed the inspection and PO Acevedo invoiced the dirt bike.

A request for information is an encounter between a civilian and a uniformed member of the service conducted for the purpose of requesting information from the civilian. The uniformed member of the service must have an objective credible reason to approach the civilian. This type of encounter does not require any suspicion of criminal activity. The objective is to gather information and not to focus on the person as a potential suspect. A police officer may seek information related to the reason(s) the person was approached, such as the person's name, address and destination, if those questions are related to the objective credible reason for the approach. The officer may not ask accusatory questions, Patrol Guide Procedure 212-11 (**BR 06**).

The term "motorized scooter" shall mean any wheeled device that has handlebars that is designed to be stood or sat upon by the operator, is powered by an electric motor or by a gasoline motor and is not capable of being registered with the New York State Department of Motor Vehicles. No person shall operate a motorized scooter in the city of New York. Any motorized scooter that has been used or is being used in violation of the provisions of this section may be impounded, NYC Administrative Code 19-176.2 (**BR 07**). Person "operates" motor vehicle when he begins to use mechanism of automobile for purpose of putting automobile in motion even though he does not move it, NY CLS Vehicle and Traffic Law §113 (**BR 08**).

When a member of the service takes enforcement action and/or invoices a motorized scooter/electric bicycle pursuant to being operated unlawfully on a New York City sidewalk and street, (9) in all cases, seize the motorized scooter, Patrol Guide Procedure 209-37 (**BR 09**).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party.
- Cpt. Girven has been a member of service for thirty-three years and has been a subject in four CCRB complaints and six allegations, none of which have been substantiated. § 87(2)(g)
- PO Delgado has been a member of service for nine years and this is the first CCRB complaint to which she has been a subject.
- PO Acevedo has been a member of service for one year and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On May 21, 2021, a FOIL request for Notice of Claim was submitted to the NYC Office of the Comptroller. (BR 13) The results will be attached to the case file upon receipt.

- § 87(2)(b)

§ 87(2)(b) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad No.: 6

Investigator: Lily Kim Investigator Lily Kim 6/23/2021
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 6/23/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date